

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

PAULETTE HOLMES, )  
                        )  
Plaintiff,           )  
                        )  
v.                     ) Civil Action No.: 3:21-cv-00578-ECM  
                        )  
FRESENIUS KIDNEY CARE )  
OF TUSKEGEE, et al.,  )  
                        )  
Defendants.          )

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Defendant Bio-Medical Applications of Alabama, Inc. d/b/a Fresenius Kidney Care Tuskegee (“BMA”), pursuant to Fed. R. Civ. P. 56, moves for summary judgment on Plaintiff Paulette Holmes’s loss of consortium claim—the only claim remaining in this lawsuit. There is no genuine dispute as to any material fact, and BMA is entitled to judgment as a matter of law. BMA is entitled to summary judgment for the following reasons:

1. Plaintiff lacks admissible expert testimony to establish the applicable standard of care, BMA’s breach of that standard of care, or causation. As a result, Plaintiff’s claims fail. *See, e.g., Fletcher v. Health Care Auth. of City of Huntsville*, 344 So. 3d 347, 352 (Ala. 2021); *Fuqua v. United States*, No. 5:18-CV-00334-HNJ, 2021 WL 5140941, at \*4–6 (N.D. Ala. Nov. 4, 2021).
2. There is no evidence that Plaintiff suffered any harm to her marital interest, and she thus has not suffered any loss of consortium damages. *See, e.g., Ex parte N.P.*, 676 So. 2d 928, 930–31 (Ala. 1996).

3. At a minimum, BMA is entitled to summary judgment on any claim for punitive damages because Plaintiff lacks evidence of wantonness. *See, e.g., Lewis-Smith Corp. v. Chattahoochee Bay R.R., Inc.*, No. 1:10cv786-WHA, 2012 WL 540564, at \*1 (M.D. Ala. Feb. 17, 2012) (granting summary judgment as to wantonness claim and punitive damages request).

In further support of this motion, BMA relies upon and incorporates herein the pleadings, its evidentiary submission, and supporting brief and statement of undisputed material facts.

Respectfully submitted:

/s/ Leigh Anne Hodge

Leigh Anne Hodge (ASB-1008-E49L)  
George R. Parker (ASB-2248-K74G)  
Hillary Campbell (ASB-5189-G82E)  
Stanley E. Blackmon (ASB-8802-T68N)  
Carmen Weite (ASB-8084-F10I)

*Counsel for Defendant Bio-Medical  
Applications of Alabama, Inc. d/b/a  
Fresenius Kidney Care Tuskegee*

**OF COUNSEL:**

George R. Parker (ASB-2248-K74G)  
BRADLEY ARANT BOULT CUMMINGS LLP  
RSA Dexter Avenue Building  
445 Dexter Avenue, Suite 9075  
Montgomery, AL 36104  
Telephone: (334) 956-7700  
[gparkera@bradley.com](mailto:gparkera@bradley.com)

Leigh Anne Hodge (ASB-1008-E49L)  
Hillary Campbell (ASB-5189-G82E)  
Stanley E. Blackmon (ASB-8802-T68N)  
Carmen Weite (ASB-8084-F10I)  
BRADLEY ARANT BOULT CUMMINGS LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203  
Telephone: (205) 521-8000  
[lhodge@bradley.com](mailto:lhodge@bradley.com)  
[hcampbell@bradley.com](mailto:hcampbell@bradley.com)  
[sblackmon@bradley.com](mailto:sblackmon@bradley.com)  
[cweite@bradley.com](mailto:cweite@bradley.com)

## CERTIFICATE OF SERVICE

This is to certify that on September 20, 2023 the foregoing document was filed with the Clerk of Court using the CM/ECF electronic filing system, which will serve the following counsel of record:

H.E. Nix  
P.O. Box 241892  
Montgomery, Alabama 36124  
Telephone: 334-279-7770  
[cnix@nixattorney.com](mailto:cnix@nixattorney.com)

Walter E. McGowan  
GRAY, LANGFORD, SAPP,  
MCGOWAN, GRAY, GRAY &  
NATHANSON, P.C.  
P.O. Box 830239  
Tuskegee, Alabama 36083-  
0239  
[wem@glsmgn.com](mailto:wem@glsmgn.com)

Griffin Sikes, Jr.  
Post Office Box 11234  
Montgomery, Alabama 36111  
[sikeslawyer@gmail.com](mailto:sikeslawyer@gmail.com)

David W. Proctor  
Carl C. Williams  
HALL BOOTH SMITH, P.C.  
2001 Park Place North, Suite  
870  
Birmingham, Alabama 35203  
[dproctor@hallboothsmith.com](mailto:dproctor@hallboothsmith.com)  
[cwilliams@hallboothsmith.com](mailto:cwilliams@hallboothsmith.com)

/s/ Leigh Anne Hodge

Of Counsel